IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.5709 OF 2006

Mr Rajendrakumar Shobhakant Jha
and Anr. .. Petitioners

Vs

M/s N Ajit Steel Corporation
and ors. .. Respondents

Mr S.A.Sawant, for the petitioners.
M/s J.Shekhar & Co., for the respondents.

CORAM : D.B.BHOSALE,J.
DATE : 16.10.2006
PC:

1. Heard the learned counsel for the parties.

2 Rule. Returnable forthwith. Mr.Shekhar, learned counsel, waives service for the respondents. By consent, rule is heard forthwith.

3. By this writ petition, the petitioners have impugned the order dated 13.7.2006 passed on the application filed by the petitioners-defendants under Order 37, Rule 3(5) of CPC seeking leave to defend the suit unconditionally. While granting leave, the court below put a condition on the petitioners to deposit an amount of Rs. Five lakhs within one month. This condition is being challenged in the present petition. While issuing notice, the petitioners were directed to deposit fifty percent of the amount that was directed to

be deposited by the impugned order and I am informed by the learned counsel for the petitioners that they have deposited Rs.2.50 lakhs in the trial court. The learned counsel for the parties have fairly stated that I need not record reasons for disposal of the writ petition and have agreed for the following order:

(a) The writ petition is partly allowed. The direction to deposit the amount of Rs.Five lakhs is modified by allowing the petitioners to deposit Rs.2.50 lakhs. Since the petitioners have already deposited the said amount, the trial Court shall proceed with hearing of the suit and dispose it off,on merits in accordance with law and without being influenced by the observations made in the impugned order. The trial Court shall endeavour to dispose of the suit within six months from the date of receipt of this order. It is open for the trial Court to pass an appropriate direction for investment of the amount pending hearing and final disposal of the suit.

(b) The rule is accordingly disposed of.

(D.B.BHOSALE,J.)